



CITY COUNCIL

AGENDA REQUEST

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| AGENDA OF: | 11-15-11 | AGENDA REQUEST NO: | III-B |
| INITIATED BY: | PHIL WAGNER <i>PSW</i> MANAGEMENT ASSISTANT II | RESPONSIBLE DEPARTMENT: | COMMUNITY DEVELOPMENT |
| PRESENTED BY: | PHIL WAGNER MANAGEMENT ASSISTANT II | DEPARTMENT HEAD: | JIM CALLAWAY <i>[Signature]</i> DIRECTOR OF COMMUNITY DEVELOPMENT |
| | | ADDITIONAL DEPARTMENT HEAD (S): | CHRIS STEUBING <i>CLS</i> CITY ENGINEER |
| SUBJECT / PROCEEDING: | ORDINANCE 1839, REPEALING DIVISION 2 OF ARTICLE VIII OF CHAPTER 5 OF THE CODE OF ORDINANCES ON THE CREATION OF MUNICIPAL UTILITY DISTRICTS, ADOPTING A NEW DIVISION ON THE SAME SUBJECT, AND AMENDING SECTION 136 OF CHAPTER 2 TO INCLUDE DISTRICT FEES SECOND READING | | |
| EXHIBITS: | ORDINANCE NO. 1839 RESOLUTION 11-07: CREATION, OPERATION AND DISSOLUTION OF SPECIAL PURPOSE DISTRICTS LOCATED WITHIN THE CITY OR EXTRATERRITORIAL JURISDICTION | | |
| CLEARANCES | | APPROVAL | |
| LEGAL: | EUGENIA CANO ASSISTANT CITY ATTORNEY <i>EAC</i> | ASST. CITY MANAGER: | KAREN GLYNN <i>Kg</i> |
| PURCHASING: | N/A | ASST. CITY MANAGER: | N/A |
| BUDGET: | N/A | CITY MANAGER: | ALLEN BOGARD <i>Kg</i> /FOR AB |
| BUDGET | | | |
| EXPENDITURE REQUIRED: \$ | | N/A | |
| CURRENT BUDGET: \$ | | N/A | |
| ADDITIONAL FUNDING: \$ | | N/A | |
| RECOMMENDED ACTION | | | |
| Consider and approve on second reading City Ordinance No. 1839, repealing sections of the Code of Ordinances relating to the creation of water and sewer districts and creating and amending new sections and incorporating fees regarding district creation, annexation and infrastructure review and inspection. | | | |

EXECUTIVE SUMMARY

On March 15, 2011 the City Council approved Resolution 11-07, establishing a policy on the creation of municipal utility districts in the City's extraterritorial jurisdiction (ETJ) and corporate limits, as well as dissolution of districts in the city limits. The policy features key provisions related to district bonding requirements, acceptable debt levels, and maintenance, operation and ownership of facilities. Additionally, the policy outlines consent conditions regarding development agreements, strategic partnership agreements and fire services agreements with ETJ districts, as well as a restructured formula for the issuance of tax reimbursements to in-city districts.

The policy repealed the existing council policy governing the creation and dissolution of districts in the City. However, Chapter 5, Article VIII, Division II of the Code of Ordinances, focusing on the creation of districts within the ETJ, remained in effect. City staff, including the Legal Department, is recommending approval of Ordinance No. 1839 which will repeal the existing Division II as the general regulations and standards found in Section 5-236 are contained in existing policies and provisions – such as TCEQ rules, the City's Development Code, and the district creation / dissolution policy – or they are in conflict with existing practices. The newly proposed Division II would require that districts created within the City or ETJ would, as a condition for creation, comply with written policies adopted by City Council.

The existing Division II also features Section 5-237, which currently houses the district creation, district annexation and infrastructure plan review and inspection fees. Ordinance No. 1839 would move the fees to Section 2-136, known as the fee section of the Code. Division II would be amended to state when those fees are assessed. While much of the language in the existing portion of the Code would be restated, staff used the recodification as an opportunity to clean up portions of the Code to adhere to actual practices and the intent of the fees. Community Development and Engineering met with the Development Committee in August and September and received support for the proposed changes. Brief overviews of each fee, with the proposed alterations, are outlined below.

District Creation Fee

- \$30,000 fee to be paid after consent is given by the City to partially reimburse the City for expenses related to the creation of a District.
- The fee is no longer a \$20,000 non-refundable fee plus a \$10,000 refundable fee. The fee is no longer tied solely to fiscal and legal expenses.

District Annexation Fee

- \$30,000 fee to be paid after consent is given by the City related to reviewing the annexation or acquisition. The fee is not paid if the District Creation Fee has already been paid.
- The fee is no longer a \$20,000 non-refundable fee plus a \$10,000 refundable fee, as owners or developers of land within the District are exempt from future \$10,000 charges if they have already paid the District Creation Fee. Districts annexing less than five contiguous acres are not subject to the fee. The fee is no longer tied solely to fiscal and legal expenses.

Infrastructure Plan Review and Inspection Fee

- A fee of 1% of the cost to construct all district infrastructure for:
 - New districts created after August 3, 2010 and the adoption of Ordinance 1791 that created the fee.
 - New powers or bonding authority granted to older districts after August 3, 2010.
 - New land annexed from outside the boundaries of a District.
 -

In addition to incorporating the fee language, the new ordinance would create a section in the Code providing the City Manager the authority to enter into agreements with districts where credits would be granted for connection fees upon the oversizing of certain facilities that go beyond what is necessary for a district to serve their development.

This item was presented at a Council workshop on October 18, and received no objection. Staff recommends approval of Ordinance No. 1839.

EXHIBITS

ORDINANCE NO. 1839

AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS, REPEALING DIVISION 2 OF ARTICLE VIII OF CHAPTER 5 OF THE CODE OF ORDINANCES RELATING TO THE CREATION OF MUNICIPAL UTILITY DISTRICTS; ADOPTING A NEW DIVISION 2 OF ARTICLE VIII OF CHAPTER 5 OF THE CODE OF ORDINANCES ON THE SAME SUBJECT; AMENDING SECTION 5-249 (4) OF CHAPTER 5 OF THE CODE OF ORDINANCES RELATING TO PROVIDING CREDITS FOR CONNECTION CHARGES; AND AMENDING SECTION 136 OF CHAPTER 2 TO PROVIDE FOR FEES RELATING TO DISTRICTS.

WHEREAS, section 54.016 of the Texas Water Code and section 42.042 of the Local Government Code give the City authority relating to the creation and operation of special purpose districts located within the City or its extraterritorial jurisdiction; and

WHEREAS, the City wishes to amend the City's Code of Ordinances relating to the City's exercise of its authority over special districts in the City and the City's extraterritorial jurisdiction; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:

Section 1. That the provisions of Division 2 of Article VIII of Chapter 5 the Code of Ordinances are repealed, except as provided for in this ordinance.

Section 2. That a new Division 2 is adopted to read as follows:

Division 2. Creation of Special Districts

Sec. 5-236. District defined. In this Division 2, a district means any municipal utility district, levee improvement district, or other type of special district created and operating under the authority granted by Section 59, Article XVI of the Texas Constitution.

Sec. 5-237. Compliance with policies. Any district to be created in within the City of Sugar Land or its extraterritorial jurisdiction must, as a condition of its creation, comply with written policies adopted by the city council.

Sec. 5-238. Reimbursement for expenses.

(a) *Petition to create district.* Within six months after consent to the creation of a district is given by the city, or within three months after the district is created by the Texas Commission on Environmental Quality or its successor agency, whichever is later, the owner or the developer of the land within the district must pay the fee established by ordinance to reimburse the city for expenses relating to processing the petition to create the district.

(b) *Petition to annex or acquire land.* To partially reimburse the city for expenses related to a district's annexation or acquisition of land, the owner or developer of land within the district that has not paid the council-approved fee to process the petition to create the district, either before or after enactment of this ordinance, must make a one-time payment in the amount established by ordinance within six months after receiving the city's consent to annex or after the district acquires land that is:

- (1) Not contiguous to the district's boundaries; or
- (2) Contiguous to the district's boundaries and greater than five acres.

(c) Infrastructure plan review and inspection fee.

- (1) Defined. The infrastructure plan review and inspection fee means the fee established by ordinance required to reimburse the city for engineering and planning fees and expense related to the city's:
 - a. Review of plans and specifications for the district's facilities;
and
 - b. Inspection of the district's facilities.
- (2) When fee required. In addition to the other district fees required by this section, the owner or developer of land within a district that constructs public infrastructure must pay the city the infrastructure plan review and inspection fee when a district:
 - a. Is created;
 - b. Created before or after November 1, 2011 obtains the final authority to exercise a power after November 1, 2011 that the district did not have at the time of its creation and the developer constructs public infrastructure related to that power; and
 - c. Annexes new land into the district or acquires land and public infrastructure improvements are constructed in the newly annexed or acquired area.
- (3) When paid. The infrastructure plan review and inspection fee must be paid each time the owner or developer of land within the district requests:
 - a. The city's initial acceptance of the public infrastructure located in the city limits; or
 - b. A letter from the city confirming that the public infrastructure within the district located in the city's extraterritorial jurisdiction complies with the city's ordinances and regulations applicable to public infrastructure within the city.

Sec. 5-239 That the prior provisions of this Division 2 survive repeal and continue in effect to the extent:

- (1) The provisions were applied by, incorporated into, or referenced by, any resolution adopted by the city council prior to November 1, 2011, that provided for the creation of a district; and

(2) Under the former provisions of section 5-237, a district created before or after August 3, 2010 obtained final authority to exercise a power after August 3, 2010 that the district did not have at the time of its creation and the owner or developer constructs public infrastructure related to that power.

Sec. 5-240--Sec.5-245. Reserved.

Section 3. That section 5-249 (4) of the Code of Ordinances is amended to read as follows:

(4) *Credit for facilities.* The city manager may approve a written agreement with a district that provides for the district to receive credits for connection charges for constructing “oversized” facilities requested by the city or other facilities that would not otherwise be required to be constructed by the district to serve development within the district.

Section 4. That Section 2-136 (4)q. of the Sugar Land Code of Ordinances is amended to read as follows:

q. District fees.

1. Process petition to create district - \$30,000
2. Process petition to acquire or annex land - \$30,000
3. Infrastructure plan review and inspection fee - 1% of cost to construct public infrastructure.

Section 5. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on November 01, 2011.

ADOPTED upon second consideration on _____, 2011.

James A. Thompson, Mayor

ATTEST:

Glenda Gundermann, City Secretary

Reviewed for Legal Compliance:

Eugenia A. Cano

POLICY NUMBER 5000-03

Date Adopted: 03-15-2011

Date Effective: 03-15-2011

RESOLUTION NO. 11-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS,
ADOPTING A POLICY ON THE CREATION, OPERATION, AND DISSOLUTION OF SPECIAL
PURPOSE DISTRICTS LOCATED WITHIN THE CITY OR ITS EXTRATERRITORIAL
JURISDICTION

BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:

Section I. That the City Council hereby adopts the following policy for:

CREATION, OPERATIONS, AND DISSOLUTION OF SPECIAL PURPOSE DISTRICTS
LOCATED WITHIN THE CITY OF SUGAR LAND OR ITS EXTRATERRITORIAL
JURISDICTION

PURPOSE

This policy establishes how the City Council will exercise its authority relating to the creation, operations, and dissolution of special purpose districts located within the City or its extraterritorial jurisdiction.

SCOPE OF POLICY

Special purpose districts play a significant role in financing, constructing and operating water, wastewater, drainage, and park facilities for the development of land in the City and the City's extraterritorial jurisdiction. State law gives the City Council authority over the creation, operations, and dissolution of special purpose districts. This policy sets forth the requirements that Council will exercise over special purpose districts.

Definitions. In this Policy:

District means any type of special purpose district created under the authority of section 59, article XVI, or section 52, article III, of the Texas Constitution, including a municipal utility district operating under chapter 54 of the Texas Water Code, but excluding levee improvement districts operating under chapter 57 of the Texas Water Code.

ETJ means the City's extraterritorial jurisdiction.

MUD means a municipal utility district created under section 59, article XVI of the Texas Constitution and operating under chapter 54 of the Texas Water Code.

TCEQ means Texas Commission on Environmental Quality.

I. Creation of ETJ Districts

- A. Background:** The provisions of this Section I apply to the City's consent conditions for the creation of districts over land located in the ETJ in accordance with the general laws applicable to the creation of districts, as well as special legislation resulting in the creation of districts. The City will oppose all districts, regardless of how they are created, that do not meet the prerequisite criteria outlined in Section I. C or if the applicant does not agree to the City's conditions outlined in Section I. D. Additionally, the City will oppose all districts if the applicant and the City cannot come to a mutual agreement on the terms expressed in Section I. E. The City reserves the right to annex any and all land in the ETJ – and dissolve districts if necessary – when such action is determined to be beneficial by the City Council.
- B. Application for Creation:** A person requesting that the City give its written consent to the creation of a district must file an application with the City on a form provided for that purpose, along with the required petition and any fee required by ordinance. The application must state whether the applicant is requesting that the City contract to serve the District with water and wastewater services. Upon the City's request, the applicant must provide any other information reasonably necessary for the City Council to determine whether its consent should be given.
- C. Prerequisite for Creation:** Before the City Council consents to creation of a district, the following issues shall be considered:

- 1.) Whether the City has already made plans to annex, or provide municipal services to the area proposed for inclusion in the District within the next five years.
- 2.) Whether the proposed area for the District lies in the ETJ of two or more cities.

If the determination on both issues 1 and 2 above is negative, then the City Council should give further consideration to offering their consent for the creation of the District while applying the conditions listed in Section I. D and I. E and of this policy. If the determination on either of the two issues is affirmative, then the City Council should not consent to creation, and move to annex the land or work through any outstanding issue.

- D. Conditions for City Consent:** In order for the City Council to consent to the creation of, or inclusion of land within a district, then it shall impose the following requirements as conditions of the City's consent, and such requirements shall be stipulated in the consent resolution and/or other ancillary agreements – including, but not limited to, a development agreement and strategic partnership agreement – unless the City Council determines that requirements are not appropriate with regard to a specific district.
- 1.) All bonds, which shall be and remain obligations of the District until its dissolution, must be approved by the City Council. The City Council may refuse to give its approval to the issuance of bonds – or limit the amount of bonds issued by the District – if the District is not in compliance with the City's requirements contained in the consent

resolution or ancillary documents. The City will request compliance with the following terms and reporting requirements:

- a. The District's initial bond debt maturity date will not exceed 25 years. Once the District has established a maturity date for its initial bonds, the maturity date for any additional bonds will not extend beyond the maturity date for the initial bonds, without the approval of the City.
- b. The amount of each annual principal payment on bond debt should be substantially the same or only moderately increased throughout the repayment term. In any case, at least 40% of the principal must be repaid in the first half of the repayment schedule, unless a portion of the bonds are structured as capital appreciation bonds.
- c. The District may not fund more than 24 months of capitalized interest in a bond issue.
- d. The City may limit a MUD to only issue bonds for the purposes of providing water, wastewater and drainage improvements
- e. The City may approve the issuance of District bonds for park or road improvements if the park or road improvements for which the bonds are issued are included in the City's master plans.
- f. At least 30 days before the issuance of bonds, except refunding bonds, the District's financial advisor shall certify in writing that bonds are being issued within the existing economic feasibility guidelines established by the TCEQ - whether or not the District has been approved by the TCEQ. The report, provided to the City Manager, should also state the following:
 - i. The amount of bonds being proposed for issuance,
 - ii. The projects to be funded by such bonds,
 - iii. The proposed debt service tax rate after issuance of the bonds.
- g. Within 30 days after the District closes the sale of a series of bonds, the District shall deliver to the City Manager a copy of the final official statement for such series of bonds as well as any additional information requested by the City.
- .) All water, wastewater, drainage and road infrastructure owned and operated by the District shall become City owned and operated infrastructure. Therefore District infrastructure shall be constructed in accordance with City design standards. The City reserves the right to inspect all facilities being constructed by or on behalf of the District and to charge inspection fees required by ordinance.

- 3.) All District utility infrastructure must be designed and constructed as part of a City approved regional utility system and in compliance with the City's Water Master Plan and Wastewater Master Plan. The District must pay all applicable connection fees prior to connecting to the City's water and wastewater system.
- 4.) A District may not annex additional land into the District unless the City Council first adopts a resolution giving its consent to the annexation. The conditions contained in the resolution consenting to the creation of the District also apply to the land annexed, unless the resolution approving the District's annexation of additional land states otherwise. Conversely, the District may not enter into an agreement to be annexed, in whole or in part, with another district or municipality without written authorization from the City of Sugar Land.
- 5.) The District shall file a notice in the real property records of Fort Bend County stating that the City may annex the District as provided by State law. The parties may attach a form of such notice to the consent agreement or development agreement.
- 6.) The District shall send a copy of the order or other action setting an ad valorem tax rate to the City Secretary, City Finance Director and the City Manager within 30 days after District adoption of the rate.
- 7.) The District shall send a copy of its annual audit to the City Finance Director and City Manager. The District will also ensure that they are meeting accounting standards set by the Governmental Accounting Standards Board (GASB), and they are fulfilling all arbitrage compliance reports to the satisfaction of the City Finance Director.
- 8.) The District shall provide copies of any material event notices filed under applicable federal securities laws or regulations to the City Manager within thirty (30) days after filing such notices with the applicable federal agency.

E. Additional Conditions: The City may agree to include other conditions or other requirements in the City's consent resolution, upon mutual agreement with the District, including:

- 1.) That the developer(s) of the land will enter into a development agreement with the City, pursuant to Local Government Code, Section 212.172, to extend the City's planning authority over land included in the District by providing for approval of a development plan, authorizing enforcement by the City for land use and development regulations, and including other lawful terms and considerations the parties consider appropriate. The development agreement may include provisions that are mutually acceptable to the parties relation to the following matters:

- a. Land use plan reflecting all approved land uses and residential densities;
 - b. Compliance with City construction codes, including permit requirements;
 - c. Compliance with City and other applicable stormwater and water quality regulations;
 - d. Development standards comparable to City zoning regulations; and
 - e. Dedication and development of park areas.
- 2.) That, if municipal services - including water and wastewater services –are desired, the District will enter into a strategic partnership which will outline terms for the annexation of the District, as well as address whether the District will be immediately dissolved or continue to operate for limited purposes after annexation.
- 3.) That, the City may annex any or all commercial development with the District for limited purpose pursuant to a Strategic Partnership Agreement under Local Government Code, Section 43.0751, and may impose a sales and use tax within the area annexed for limited purposes. The City may consider sharing tax receipts with the District, provided the District's share is used to finance infrastructure, retire bond debt or for other purposes acceptable to the City.
- 4.) That the District will not drill water wells without specific approval by the City. If the District receives approval from the City to create ground wells, for potable or non-potable water production, or if the District plans to employ reuse water, originating from inside or outside the District, for the purposes of landscape irrigation or filling amenity ponds, the District will take part in the City's Groundwater Reduction Plan. Any subsidence district credits earned in the District will be owned by the GRP Administrator, the City of Sugar Land.
- 5.) That a District may not provide water or wastewater service outside the boundaries of the District without written authorization from the City and will not enter into an agreement with another district or municipality to receive water and wastewater services without the prior written authorization from the City of Sugar Land.
- 6.) The District may enter into a Fire Protection Agreement with the City. The agreement will include terms and conditions for the District to receive full City of Sugar Land fire protection services, as well as possibly outline plans for the cost allocation of future capital improvements projects, such as the construction of fire stations.
- 7.) That if the City determines that development in a District will place a burden on City roads as a result of a traffic impact analysis, and the District has been provided road bond authority from the City, the District will construct, widen, or improve such roads in proportion to the traffic generated by the development.

II. Creation of In City Districts

- A. **Background:** The provisions of this Section II apply to the City's consent conditions for the creation of districts over land located in the City's corporate limits in accordance with the general laws applicable to the creation of districts, as well as special legislation resulting in the creation of districts. All City ordinances and codes, including applicable permits, fees and inspections, shall be of full force and effect within the District in the same manner as with respect to other areas within the City's corporate limits, except as specifically stated herein.
- B. **Application for Creation:** A person requesting that the City give its written consent to the creation of a district must file an application with the City on a form provided for that purpose, along with the required petition and any fee required by ordinance. The application must state the purpose for the creation of an In City district. Upon the City's request, the applicant must provide any other information reasonably necessary for the City Council to determine whether its consent should be given.
- C. **Prerequisite for Creation:** Before the City Council consents to creation of a district, the following issues shall be considered:
- 1.) Whether the area has already been developed with sufficient infrastructure to accommodate future or existing water, wastewater, drainage and transportation needs.
 - 2.) Whether the proposed District includes land located outside the City's corporate limits.

If the determination on issues 1 and 2 are negative, then the City Council should give further consideration to offering their consent for the creation of the District while applying the conditions listed in Section II D and II E of this policy. If the determination on any of the two issues is affirmative, then the City Council should not consent to creation.

- D. **Conditions for City Consent:** In order for the City Council to consent to the creation of, or inclusion of land within a district, then it shall impose the following requirements as conditions of the City's consent, and such requirements shall be stipulated in the consent resolution and/or other ancillary agreements – such as a development agreement – unless the City Council determines that requirements are not appropriate with regard to a specific district.
- 1.) All bonds, which shall be and remain obligations of the District until its dissolution, must be approved by the City Council. The City Council may refuse to give its approval to the issuance of bonds – or limit the amount of bonds issued by the District – if the District is not in compliance with the City's requirements contained in the consent resolution or ancillary documents. The City will request compliance with the following terms and reporting requirements:

- a. The District's initial bond debt maturity date will not exceed 25 years. Once the District has established a maturity date for its initial bonds, the maturity date for any additional bonds will not extend beyond the maturity date for the initial bonds, without the approval of the City.
 - b. The amount of each annual principal payment on bond debt should be substantially the same or only moderately increased throughout the repayment term. In any case, at least 40% of the principal must be repaid in the first half of the repayment schedule, unless a portion of the bonds are structured as capital appreciation bonds.
 - c. The District may not fund more than 24 months of capitalized interest in a bond issue.
 - d. The City may limit a MUD to only issue bonds for the purposes of providing water, wastewater and drainage improvements
 - e. The City may approve the issuance of District bonds for park or road improvements if the park or road improvements for which the bonds are issued are included in the City's master plans.
 - f. At least 30 days before the issuance of bonds, except refunding bonds, the District's financial advisor shall certify in writing that bonds are being issued within the existing economic feasibility guidelines established by the TCEQ - whether or not the District has been approved by the TCEQ. The report, provided to the City Manager, should also state the following:
 - i. The amount of bonds being proposed for issuance,
 - ii. The projects to be funded by such bonds,
 - iii. The proposed debt service tax rate after issuance of the bonds.
 - g. Within 30 days after the District closes the sale of a series of bonds, the District shall deliver to the City Manager a copy of the final official statement for such series of bonds as well as any additional information requested by the City.
- 2.) The City shall require that the owner of the real property over which the District will be created to enter into a written City contract for the City to provide water and wastewater services to the District and that the District accept, after its creation, the water and wastewater service contract agreed upon between the City and the owner. The District must pay all applicable connection fees. All District utility infrastructure must be designed and constructed as a part of the City's regional utility system and in compliance with the City's Water Master Plan and Wastewater Master Plan.

- 3.) District infrastructure shall be constructed in accordance with City design standards. The City reserves the right to inspect all facilities being constructed by or on behalf of the District and to charge inspection fees required by ordinance.
- 4.) The District will not drill wells without specific approval by the City as provided in the City's Code of Ordinances. If the District receives approval from the City to create ground wells, for potable or non-potable water production, or if the District plans to employ reuse water, originating from inside or outside the District, for the purposes of landscape irrigation or filling amenity ponds, the District will take part in the City's Groundwater Reduction Plan. Any subsidence district credits earned in the District will be owned by the GRP Administrator, the City of Sugar Land.
- 5.) A district may not annex additional land into the District unless the City Council first adopts a resolution giving its consent to the annexation. The conditions contained in the resolution consenting to the creation of the District also apply to the land annexed, unless the resolution approving the District's annexation of additional land states otherwise. Conversely, the District may not enter into an agreement to be annexed, in whole or in part, with another district or municipality, without written authorization from the City of Sugar Land.
- 6.) A District may not provide water or wastewater service outside the boundaries of the District. Conversely, the District may not enter into an agreement with another district or municipality to receive water and wastewater services.
- 7.) The District shall send a copy of the order or other action setting an ad valorem tax rate to the City Secretary, City Finance Director and the City Manager within 30 days after District adoption of the rate.
- 8.) The District shall send a copy of its annual audit to the City Finance Director and City Manager. The District will also ensure that they are meeting accounting standards set by the Governmental Accounting Standards Board (GASB), and they are fulfilling all arbitrage compliance reports to the satisfaction of the City Finance Director.
- 9.) The District shall provide copies of any material event notices filed under applicable federal securities laws or regulations to the City Manager within thirty (30) days after filing such notices with the applicable federal agency.
- 10.) The District will not own any facilities without the City's written approval. The District will finance water, wastewater, and drainage facilities and convey them to the City, upon completion of construction, for operation and maintenance.
- 11.) The District will not incur operating expenses, other than administrative operating expenses, without the City's specific written authorization.

E. Tax Reimbursement: Over the years, the City has annexed and dissolved MUDs and, as required by law, assumed their bond debt upon dissolution. The City pays off the MUD bond debt through its ad valorem taxes. MUDs also levy an ad valorem tax to pay for MUD operations and maintenance and to finance their bond debt. This policy recognizes that the property owners within a MUD who pay both MUD and City ad valorem taxes should not have to bear the cost of that portion of the City's ad valorem taxes used to pay the bond debt assumed by the City from previously dissolved MUDs. The City Council has determined that tax rebate payments made under this policy serve the public purpose of providing equitable relief to the MUD property owners from the additional City taxes imposed to pay a portion of the bond debt incurred by other MUDs and assumed by the City upon dissolution.

- 1.) **Eligibility:** To receive City tax rebate payments under this policy, a MUD must agree to the above terms, including those issues related to bond restrictions, in a consent resolution or other ancillary document.
- 2.) **Requirements:** The MUD will agree to only use the tax rebate payments to reduce the MUD's ad valorem tax rate by applying the payments to the MUD's annual debt service payment.
- 3.) **Amount of payments:** In each year that a MUD has bond debt incurred for the construction of public water, wastewater and drainage facilities, the City will make annual tax rebate payments to the MUD in an amount that is the lesser of:
 - a. The amount the MUD is required to pay in principal and interest on its bond debt for that year; or
 - b. The portion of the City's ad valorem taxes collected from within the MUD, determined by applying that portion of the City's then current ad valorem tax rate dedicated to the payment of the debt service for dissolved MUDs, to the taxable value of property in the MUD, after excluding the City's cost of collection, including penalties, interest, or late fees.
- 4.) **Payment dates:** The City will make the tax rebate payments to the MUD on or before February 15 of each year, for the taxes collected during the preceding year.

III. Dissolution of In City Districts

A. Application: The City Council may dissolve a district at anytime, with or without District approval, pursuant to state statute. However a district may provide a written request that the City consider dissolution if certain guidelines, addressed below, are met. The request should be sent to the City's Secretary with the proposed date of dissolution, and supporting documentation showing that the District will meet the guidelines for dissolution by that date. If the City Council decides that dissolution will be beneficial to the City, the City will prepare a written

implementation plan for the District's dissolution within six months of the date the City Council considers the request.

B. Dissolution Guidelines: Districts seeking dissolution should meet all of the following conditions:


- 1.) For districts existing prior to the enactment of this policy, the City's annual costs of paying each the district's bond debt and reoccurring operation and maintenance expenses after dissolution will be equal to or less than the amount of revenues the City gains by foregoing payment of a previously negotiated Tax Reimbursement. For districts created after January 1 following the adopted date of this policy, the City's annual costs of paying each district's bond debt after dissolution will be equal to or less than the amount of revenues the City gains by foregoing payment of the Tax Reimbursement described in Section II.E of this policy.
- 2.) The District has fully reimbursed the developer for the developer's cost of installing District infrastructure in compliance with the District's contract with the developer as permitted by Texas law and regulations;
- 3.) The District is not delinquent in the payment of any other financial obligation that is due prior to the date of dissolution, other than the bond debt to be assumed by the City;
- 4.) If the District was created after the enactment of this policy, the District did not finance and does not own or operate any drainage detention facilities that the City did not specifically approve as a public drainage facility that would become part of the City's public drainage system upon the District's dissolution.

Section 2. That Resolution No. 91-16, relating to the dissolution of MUDs is repealed.

APPROVED on March 15, 2011.

/s/
James A. Thompson, Mayor

ATTEST:



Glenda Gundermann, City Secretary

Reviewed for Legal Compliance



CITY COUNCIL

AGENDA REQUEST

| | | | |
|---|---|---------------------------------|--|
| AGENDA OF: | 03-15-11 | AGENDA REQUEST NO: | IV-C |
| INITIATED BY: | PHIL WAGNER MANAGEMENT ASSISTANT II | RESPONSIBLE DEPARTMENT: | COMMUNITY DEVELOPMENT |
| PRESENTED BY: | PHIL WAGNER MANAGEMENT ASSISTANT II | DEPARTMENT HEAD: | JIM CALLAWAY, DIRECTOR OF COMMUNITY DEVELOPMENT |
| | | ADDITIONAL DEPARTMENT HEAD (S): | N/A |
| SUBJECT / PROCEEDING: | ADOPT POLICY ON CREATION, OPERATION, AND DISSOLUTION OF SPECIAL PURPOSE DISTRICTS WITHIN THE CITY OR THE EXTRATERRITORIAL JURISDICTION. | | |
| EXHIBITS: | RESOLUTION NO. 11-07 | | |
| CLEARANCES | | APPROVAL | |
| LEGAL: | JOE MORRIS CITY ATTORNEY <i>Joe Morris</i> | ASST. CITY MANAGER: | KAREN GLYNN <i>KG</i> |
| PURCHASING: | N/A | ASST. CITY MANAGER: | N/A |
| BUDGET: | N/A | CITY MANAGER: | ALLEN BOGARD <i>Allen Bogard</i> |
| BUDGET | | | |
| EXPENDITURE REQUIRED: \$ | | N/A | |
| CURRENT BUDGET: \$ | | N/A | |
| ADDITIONAL FUNDING: \$ | | N/A | |
| RECOMMENDED ACTION | | | |
| Approve Resolution No. 11-07, adopting a policy on the creation, operation and dissolution of special purpose districts located within the City or its extraterritorial jurisdiction. | | | |

EXECUTIVE SUMMARY

On November 16, 2010, City Council held a workshop discussion on a draft policy outlining consent terms for the creation of special districts in the City's extraterritorial jurisdiction and corporate limits, as well as dissolution of districts in the city limits. The purpose of this policy is to capture Council approved standards and practices related to the development, use and dissolution of special districts.

The recommended policy has incorporated the key provisions currently utilized by the City in the creation and dissolution of districts. Some of the key provisions of the policy include bonding requirements, acceptable debt levels, and maintenance, operation, and ownership of facilities. The portion of the policy regarding the creation of ETJ districts outlines mutual consent conditions for development agreements, strategic partnership agreements, and fire services agreements to allow for future planning needs of the City. The portion of the policy regarding the creation of In-City districts provides for a newly structured tax reimbursement for ad valorem relief.

Members of the Finance and Audit Committee were briefed on provisions of the policy relating to bonding requirements, tax reimbursements and most of the dissolution guidelines at their December 2010 and February 2011 meeting. Members of the Intergovernmental Relations Committee were briefed on all other components of the policy at their December 2010 meeting. Each committee was supportive of the policy.

Approval of the policy will result in the repeal of Resolution 91-16, relating to the dissolution of municipal utility districts. City staff will also review Chapter 5, Article VIII, Division II of the Code of Ordinances, which governs the creation of districts within the ETJ. Any recommendations on revisions to that section of the Code, in order to comply with policy, will be brought to Council in the upcoming months.

Staff recommends the approval of Resolution No. 11-07.

EXHIBITS